

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3659 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?

No

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CHANCHLABEN GAMBHIRSINH THRO HER PAH KAUSHIK B LAKDAWALA

Versus

STATE OF GUJARAT

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Appearance:

Shri P.J. Vyas, Advocate, for the Petitioner

Shri A.G. Uraizee, Assistant Government Pleader,  
for the Respondents

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CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 06/09/96

ORAL JUDGEMENT

The order passed by and on behalf of the State Government (respondent No. 1 herein) on 28th October 1985 under sec. 211 of the Bombay Land Revenue Code, 1879 (the Code for brief) is under challenge in this petition under art. 226 of the Constitution of India.

By the impugned order, respondent No.1 cancelled the N.A. permission granted by the Taluka Development Officer at Olpad (respondent No.2 herein) by his order passed on 1st October 1983 with respect to one parcel of land bearing Block No. 150 admeasuring 2 acres 25 gunthas situated at Bolav taluka Olpad district Surat (the disputed land for convenience).

2. It is not necessary to set out in detail the facts giving rise to this petition. It may be sufficient to note that by his order passed on 1st October 1983 respondent No. 2 granted what is popularly known as the N.A. permission qua the disputed land on certain terms and conditions. Its copy is at Annexure A to this petition. It appears to have come to the notice of the concerned officer of respondent No. 1. He appears to have found it not according to law. Its suo motu revision under sec. 211 of the Code was therefore contemplated. A show-cause notice thereupon came to be issued on 16th October 1984 calling upon the petitioner to show cause why the order at Annexure A to this petition should not be revised under sec. 211 of the Code. Its copy is at Annexure B to this petition. The petitioner filed a reply thereto on 17th November 1984. Its copy is at Annexure C to this petition. A further reply appears to have been filed on 12th August 1985. Its copy is at Annexure D to this petition. Thereafter, by the order passed on 28th October 1985, respondent No. 1 cancelled the N.A. permission at Annexure A to this petition. Its copy is at Annexure E to this petition. The aggrieved petitioner has thereupon approached this Court by means of this petition under art. 226 of the Constitution of India for questioning its correctness.

3. It is not necessary to examine the merits of this petition for the simple reason that learned Assistant Government Pleader Shri Uraizee on instructions states that the N.A. permission order at Annexure A to this petition has not been implemented by or on behalf of the petitioner. It has further been stated that agricultural operations in the disputed land are still carried on by the original owner. Learned Advocate Shri Vyas for the petitioner has not been able to controvert this factual position. If that be so, it can safely be inferred that the petitioner is not interested in having the N.A. permission. In that view of the matter, the order at Annexure E to this petition calls for no interference by this Court in this petition under art. 226 of the Constitution of India.

4. In the result, this petition fails. It is hereby

rejected. Rule is accordingly discharged with no order as to costs. It will however be open to the petitioner to move this Court in the case of difficulties.

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